

## ALSTON&amp;BIRD LLP

Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000

704-444-1000  
Fax: 704-444-1111  
www.alston.com

RECEIVED  
CENTRAL FAX CENTER

OCT 09 2003

OFFICIAL

## TELECOPY

PLEASE DELIVER THE FOLLOWING MATERIAL AS SOON AS POSSIBLE

*Confidentiality Note:*

The information contained in this facsimile message is confidential and its contents are intended to be legally privileged information solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message and its contents is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original message to us at the address shown below via air courier service, the United States Postal Service or your national postal service (air mail). Thank You.

DATE:	October 8, 2003
TO:	Technology Group: TC1600
	USPTO
FROM:	Raymond O. Linker, Jr.

## MESSAGE:

OFFICIAL - NON-FINAL RESPONSE  
(ELECTION WITH TRAVERSE)  
Appl. No. 09/762,194  
Filed: October 8, 2001  
In re: Elbaz et al.

NO. OF PAGES: <u>3</u> (Including cover page)	FAX OPERATOR:
USER CODE: LINKR	FAX NUMBER: 703-872-9306
CLIENT/MATTER: 033339/208804	INTERNATIONAL:
REQUESTED BY: Ext:	ADDRESSEE TELEPHONE NO.:

IF NOT RECEIVED PROPERLY, PLEASE NOTIFY US IMMEDIATELY AT (704) 444-1520

Attorney's Docket No. 033339/208804

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Elbaz et al.  
Appl No.: 09/762,194  
Filed: October 8, 2001  
For: NUCLEIC SEQUENCES CODING FOR AN AT2  
INTERACTING PROTEIN INTERACTING WITH THE  
AT2 RECEPTOR AND THEIR APPLICATIONS

Confirmation No.: 1669  
Group Art Unit: 1653  
Examiner: Laurie A. Mayes

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ELECTION WITH TRAVERSE**

In response to the Office Action dated September 10, 2003, Applicants provisionally elect the claims of Group I, namely Claims 1-5 and 9-14, drawn to nucleic acid molecules and nucleic acid constructs.

However, Applicants request reconsideration by the Examiner and withdrawal of the restriction requirement for the reasons set forth more fully below, which demonstrate that the nucleic acid molecules and protein as claimed relate to a single general inventive concept.

The Examiner contends that restriction is proper because, under PCT Rule 13.2, the separate groups of claims lack the same special technical features. However, the subject matter of Claims 1-20 relates to a single general inventive concept, the technical relationship being the ATIP protein.

The Examiner's attention is directed to the fact that the International Preliminary Examination Report ("IPER") that was issued in the PCT application from which this national phase application derives found Claims 1-20 to have novelty and inventive step with respect to the prior art documents cited in the Search Report. Moreover, none of the cited documents either mentions or suggests the existence of a ligand such as ATIP. Based upon the IPER, the instant sequences are clearly novel over the prior art.

The Examiner has cited a document identified as AF121259 bearing a date of 18 January 1999, and the Examiner contends that this document shows that an isolated protein which is capable of interacting with the AT2 receptor, and which is selected from SEQ ID NO: 4 (present Claim 6) is known in the art.

However, the date of this document is after Applicants' priority date of 4 August 1998. The PCT application from which the present national phase application derives claims priority from French Application No. 98/09997, filed 4 August 1998.

Oct-08-03 04:34pm From-  
in re: Elbaz et al.  
Appl No.: 09/762,194  
Filed: October 8, 2001  
Page 2

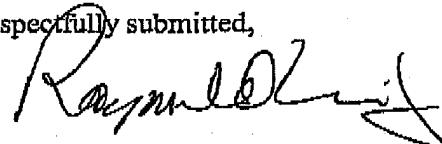
T-102 P.003/003 F-906

Therefore, the cited document cannot be used by the Examiner to show the lack of a common novel inventive step and lack of unity of invention.

For these reasons, the subject matter of Claims 1-20 involves a single inventive concept. Therefore, Applicants request reconsideration by the Examiner, withdrawal of the requirement for restriction, and an examination on the merits of Claims 1-20 as now presented.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Raymond O. Linker, Jr.  
Registration No. 26,419

CUSTOMER NO. 00826

ALSTON & BIRD LLP

Bank of America Plaza

101 South Tryon Street, Suite 4000

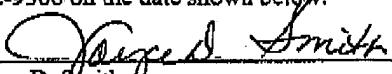
Charlotte, NC 28280-4000

Tel Charlotte Office (704) 444-1000

Fax Charlotte Office (704) 444-1111

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. 703-872-9306 on the date shown below.

  
Joyce D. Smith

Date: October 8, 2003

CLT01/4613348v1

RECEIVED  
CENTRAL FAX CENTER  
OCT 09 2003

OFFICIAL